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8 *Regina Barrett, Christopher Harris,*
9 *Julio Mesa, and Timothy Knatz*

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12 **UNITED STATES DISTRICT COURT**

13 **DISTRICT OF NEVADA**

14 LAUSTEVEION JOHNSON,

Case No. 2:17-cv-02304-RFB-BNW

15 Plaintiff,

16 v.

17 REGINA BARRETT, *et al.*,

**DEFENDANTS' MOTION TO TAKE
THE DEPOSITION OF PLAINTIFF,
A PERSON CONFINED IN PRISON**

18 Defendants.

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20 Defendants Regina Barrett, Christopher Harris, Julio Mesa, and Timothy Knatz, by
21 and through counsel, Aaron D. Ford, Nevada Attorney General, and Matthew P. Feeley,
22 Deputy Attorney General, of the State of Nevada, Office of the Attorney General, hereby
23 move for leave to depose Plaintiff Lausteveion Johnson, a person confined in prison.
24 Defendants' motion is made and based on Rule 30 of the Federal Rules of Civil Procedure
25 and the following memorandum of points and authorities.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. BACKGROUND

This is a prisoner civil rights matter. Lausteveion Johnson (Plaintiff) is an inmate lawfully incarcerated in the Nevada Department of Corrections (NDOC) and is currently housed at Southern Desert Correctional Center (SDCC). On October 31, 2018, Plaintiff's Civil Rights Complaint pursuant to 42 U.S.C. Section 1983 (Complaint) was filed against various defendants alleging violations of Plaintiff's First and Eighth Amendment rights. ECF No. 5.

On October 31, 2018, This Court issued its Screening Order on Plaintiff's Complaint (ECF No. 5). ECF No. 4. This Court ordered: that a First Amendment interference with free exercise of religion claim shall proceed against Defendant Mesa; a RLUIPA claim shall proceed against Defendant Mesa; an Eighth Amendment claim of sexual assault shall proceed against Defendants Gillmore and Barrett, and a First Amendment retaliation claim shall proceed against Defendants Gillmore, Mesa, Barrett, Knatz, and Harris. ECF No. 4 at 9:15-22.

On February 19, 2019, the Office of the Attorney general filed a Notice of Acceptance of Service for Defendants Barrett, Harris, Mesa, and Knatz. Service was not accepted for Defendant Gillmore. ECF No. 15 at 1:21-24. Defendant Gillmore was ultimately dismissed from this action pursuant to Rule 4(m). ECF No. 52

On December 18, 2018, the Court issued its Scheduling Order. ECF No. 72. Pursuant to the scheduling order, discovery is set to end on June 29, 2020. *Id.* Plaintiff is currently housed at Southern Desert Correctional Center in Indian Springs, Nevada.

II. APPLICABLE LAW

A party must obtain leave of court if the deponent is confined in prison. *See Fed. R. Civ. P. 30(a)(2)(B)*. The apparent purpose of the rule is to “prevent unnecessary disruption of the administration of the penal institution.” *Ashby v. McKenna*, 331 F.3d 1148, 1150 (10th Cir. 2003) (quoting *Kendrick v. Schnorbus*, 655 F.2d 727, 728 (6th Cir. 1981)).

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1 **III. ARGUMENT**

2 Defendants desire to take Plaintiff's deposition in this matter to prepare the case for
3 a dispositive motion or trial. Defendants dispute Plaintiff's factual allegations, and
4 Plaintiff's deposition may be necessary to resolve one or more issues presented in the case.
5 Further, Defendants are former or current prison employees, and defense counsel intends
6 to work with prison administrators to schedule the deposition on a date and time that will
7 not result in unnecessary or unavoidable disruption to prison operations. Therefore, the
8 Court should grant Defendants leave to take Plaintiff's deposition

9 DATED this 15th day of May, 2020.

10 AARON D. FORD
11 Attorney General

12 By: /s/ Matthew P. Feeley
13 MATTHEW P. FEELEY (Bar. No. 13336)
14 Deputy Attorney General

15 **IT IS SO ORDERED**

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17 
18 **BRENDA WEKSLER**
19 **UNITED STATES MAGISTRATE JUDGE**

14 *Attorneys for Defendants*
15 *Regina Barrett, Christopher Harris,*
16 *Julio Mesa, and Timothy Knatz*

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on May 15, 2020, I electronically filed the foregoing **DEFENDANTS' MOTION TO TAKE THE DEPOSITION OF PLAINTIFF, A PERSON CONFINED IN PRISON** via this Court's electronic filing system. Parties who are registered with this Court's electronic filing system will be served electronically. For those parties not registered, service was made by emailing a copy at Las Vegas, Nevada, addressed to the following:

Lausteveion Johnson, #82138
Southern Desert Correctional Center
P.O. Box 208
Indian Springs, Nevada 89070
Email: sdeclawlibrary@doc.nv.gov
Plaintiff, Pro Se

/s/ Carol A. Knight
CAROL A. KNIGHT, an employee of the
Office of the Nevada Attorney General